



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-75,229-02

EX PARTE CHRISTOPHER CHUBASCO WILKINS, Applicant

**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS
IN CAUSE NO. C-297-010957-1002038-B IN THE 297TH DISTRICT COURT
TARRANT COUNTY**

Per curiam. ALCALA, J., filed a dissenting opinion.

ORDER

We have before us a post-conviction application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071 § 5 and a motion to stay applicant's execution.

In March 2008, a jury convicted applicant of the offense of capital murder for killing more than one person during the same criminal transaction. TEX. PENAL CODE § 19.03(a)(7)(A). The jury answered the special issues submitted pursuant to Texas Code

of Criminal Procedure Article 37.071, and the trial court, accordingly, set punishment at death. This Court affirmed applicant's conviction and sentence on direct appeal. *Wilkins v. State*, No. AP-75,878 (Tex. Crim. App. Oct. 20, 2010)(not designated for publication). On June 8, 2010, applicant filed in the convicting court his initial post-conviction application for a writ of habeas corpus in which he raised eighteen claims. This Court denied applicant relief. *Ex parte Wilkins*, No. WR-75,229-01 (Tex. Crim. App. Feb. 2, 2011)(not designated for publication).

On December 22, 2016, applicant filed in the convicting court his first subsequent application. In the subsequent application, applicant asserts that his trial counsel performed deficiently in a number of ways, including by failing to investigate and present mitigating evidence at the punishment phase of trial. Applicant also claims that his trial counsel labored under an actual conflict of interest, that applicant was incompetent to plead or stand trial, and that excessive and prejudicial security measures violated his rights. Applicant recognizes that these claims should have been raised in his initial habeas application, but he asserts that they were not, due to the ineffectiveness of his initial habeas counsel. Applicant alleges that initial habeas counsel's alleged ineffectiveness should allow him to overcome the Article 11.071 § 5 pleading burden.

After reviewing applicant's writ application, we find that he has failed to satisfy the requirements of Article 11.071 § 5. Accordingly, we dismiss the application as an abuse of the writ without reviewing the merits of the claims, and we deny his motion to

stay his execution. Art. 11.071 § 5(c).

IT IS SO ORDERED THIS THE 4th DAY OF JANUARY, 2017.

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